

JAN 28 2009

A BILL FOR AN ACT

RELATING TO LABELING OF MEAT AND FISH PRODUCTS.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. Section 159-3, Hawaii Revised Statutes, is
2 amended by amending the definition of "misbranded" to read as
3 follows:

4 ""Misbranded" shall apply to any carcass, part thereof,
5 meat, or meat products under one or more of the following
6 circumstances:

- 7 (1) If its labeling is false or misleading in any
8 particular[-];
- 9 (2) If it is offered for sale under the name of another
10 food[-];
- 11 (3) If it is an imitation of another food, unless its
12 label bears, in type of uniform size and prominence,
13 the word "imitation" and immediately thereafter, the
14 name of the food imitated[-];
- 15 (4) If its container is made, formed, or filled as to be
16 misleading[-];



- 1 (5) If in a package or other container unless it bears a
2 label showing:
- 3 (A) The name and place of business of the
4 manufacturer, packer, or distributor[-]; and
- 5 (B) An accurate statement of the quantity of the
6 contents in terms of weight, measure, or
7 numerical count; provided that reasonable
8 variations may be permitted and exemptions as to
9 small packages may be prescribed by the board[-];
- 10 (6) If any word, statement, or other information required
11 by or under authority of this chapter to appear on the
12 label or other labeling is not prominently placed
13 thereon with the conspicuousness as compared with
14 other words, statements, designs, or devices, in the
15 labeling and in the terms as to render it likely to be
16 read and understood by the ordinary individual under
17 customary conditions of purchase and use[-];
- 18 (7) If it purports to be or is represented as a food for
19 which a definition and standard of identity or
20 composition has been prescribed by the board under
21 this chapter unless:



- 1 (A) It conforms to the definition and standard[-];
2 and
- 3 (B) Its label bears the name of the food specified in
4 the definition and standard and, insofar as may
5 be required by the regulations, the common names
6 of optional ingredients (other than spices,
7 flavoring, and coloring) present in the food[-];
- 8 (8) If it purports to be or is represented as a food for
9 which a standard of fill of container has been
10 prescribed by the board under this chapter, and it
11 falls below the standard of fill of container
12 applicable thereto, unless its label bears, in the
13 manner and form as the board prescribes, a statement
14 that it falls below the standard[-];
- 15 (9) If it is not subject to paragraph (7), unless its
16 label bears:
- 17 (A) The common or usual name of the food, if any
18 there be[-]; or
- 19 (B) In case it is fabricated from two or more
20 ingredients, the common or usual name of each
21 ingredient; except that spices, flavorings, and
22 colorings may with the approval of the board be



1 designated as spices, flavorings, and colorings
2 without naming each; provided that to the extent
3 that compliance with the requirements of this
4 subparagraph is impracticable, or results in
5 deception or unfair competition, exemptions shall
6 be established by the board[-];

7 (10) If it purports to be or is represented for special
8 dietary uses, unless its label bears the information
9 concerning its vitamin, mineral, and other dietary
10 properties as the board, after consultation with the
11 Secretary of Agriculture and concurrence by the
12 department of health, determines to be and prescribes
13 as necessary in order fully to inform purchasers as to
14 its value for the uses[-];

15 (11) If it bears or contains any artificial flavoring,
16 artificial coloring, or chemical preservative, unless
17 it bears labeling stating that fact; provided that to
18 the extent that compliance with this paragraph is
19 impracticable, exemptions shall be established by the
20 board[-];

21 (12) If it fails to bear, directly thereon or on its
22 container, as the board may prescribe, the inspection



1 legend and, unrestricted by any of the foregoing,
2 other information as the board may require to assure
3 that it will not have false or misleading labeling and
4 that the public will be informed of the manner of
5 handling required to maintain the meat or meat
6 products in a wholesome condition[+]; or

7 (13) If the meat or meat products, or the meat or meat
8 products derived from exotic animals, have been
9 gas-treated to enhance the product color, but does not
10 bear a truthful label indicating:

11 (1) The type of gas that was used; and

12 (2) A statement that the gas treatment was used to
13 approximate the appearance of freshness."

14 SECTION 2. Section 328-3, Hawaii Revised Statutes, is
15 amended to read as follows:

16 **"§328-3 Same; misbranding or misleading advertisement.**

17 (a) If an article is alleged to be misbranded because the
18 labeling is misleading, or if an advertisement is alleged to be
19 false because it is misleading, then in determining whether the
20 labeling or advertisement is misleading, there shall be taken
21 into account [+], among other things[+], not only representations
22 made or suggested by statement, word, design, device, sound, or



1 in any combination thereof, but also the extent to which the
2 labeling or advertisement fails to reveal facts material in the
3 light of the representations or material with respect to
4 consequences which may result from the use of the article to
5 which the labeling or advertisement relates under the conditions
6 of use prescribed in the labeling or advertisement thereof or
7 under such conditions of use as are customary or usual.

8 (b) Fish products that have been gas-treated to enhance
9 the product color shall bear a truthful label indicating:

10 (1) The type of gas that was used; and

11 (2) A statement that the gas treatment was used to
12 approximate the appearance of freshness.

13 [~~b~~] (c) "Advertisement" means all representations
14 disseminated in any manner or by any means, other than by
15 labeling, for the purpose of inducing, or which are likely to
16 induce, directly or indirectly, the purchase of food, drugs,
17 devices, or cosmetics."

18 SECTION 3. Section 328-29, Hawaii Revised Statutes, is
19 amended by amending subsection (a) to read as follows:

20 "(a) Any person who violates section 328-3 or section 328-
21 6 shall be fined not more than \$500, or imprisoned not more than
22 one year, or both."



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1 SECTION 4. Statutory material to be repealed is bracketed
2 and stricken. New statutory material is underscored.

3 SECTION 5. This Act shall take effect upon its approval.
4

INTRODUCED BY:

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S.B. NO.

1265

Report Title:

Fish; Meat; Labeling

Description:

Requires truthful labeling of meat and fish that has been gas-treated.

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